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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,266	12/06/2001	Krishnamachari Gopalan	85939.000235	5634
23387	7590	02/09/2006	EXAMINER	
Stephen B. Salai, Esq. Harter, Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, NY 14604-2711			PATTERSON, MARC A	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/010,266

Applicant(s)

GOPALAN, KRISHNAMACHARI

Examiner

Marc A. Patterson

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 63-97 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 63-97 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **REPEATED REJECTIONS**

1. The 35 U.S.C. 102(b) rejection of Claims 63, 69 – 70, 72, 74 – 75, 80 – 82, 84, 86 – 87, 92 – 94 and 96 as being anticipated by Fabris et al (U.S. Patent No. 4,676,995), of record on page 2 of the previous Action, is repeated.

2. The 35 U.S.C. 103(a) rejection of Claims 64 – 68, 71, 73, 76 – 79, 83, 85, 88 – 91, 95 and 97 as being unpatentable over Fabris et al (U.S. Patent No. 4,676,995) in view of Drake et al (U.S. Patent No. 5,521,248), of record on page 2 of the previous Action, is repeated.

### **ANSWERS TO APPLICANT'S ARGUMENTS**

3. Applicant argues, on page 10 of the remarks dated November 23, 2005 that Fabris et al does not disclose a polybutadiene; Fabris et al, Applicant argues, discloses a butadiene or isoprene – styrene star copolymer, and therefore discloses butadiene, which is a gas.

However, a butadiene copolymer is clearly a copolymer which comprises a butadiene monomer, and is therefore a polybutadiene; furthermore, Fabris et al discloses styrene – butadiene – styrene copolymer (column 3, line 66), which is also a copolymer comprising a butadiene monomer.

Applicant also argues, on page 11, that the list of agents set forth in Fabris et al is not a list of agents in each layer, but is a list from which certain agents can be chosen; the inclusion of each element in the list in each layer, Applicant argues, does not make sense.

However, because sulfur and peroxide are used interchangeably as curing agents, Fabris et al disclose sulfur and peroxide curable layers comprising sulfur or peroxide.

Applicant also argues, on page 12, that even if Fabris et al is relied upon to show a subset of the list, Fabris et al still fail to disclose a metal reinforcement with a sulfur curable rubber layer on a portion of a peroxide curable layer.

However, as stated above, Fabris et al discloses the interchangeable use of sulfur and peroxide as curing agents; furthermore, as stated on page 2 of the previous Action, Fabris et al disclose a first layer which is on a metal reinforcement, and a second layer which is in contact with the first layer; Fabris et al therefore disclose a metal reinforcement with a sulfur curable rubber layer on a portion of a peroxide curable layer.

Applicant also argues, on page 15, that Claims 86 – 97 recite an uncured non – peroxide crosslinkable elastomer layer on at least a portion of the uncured peroxide curable bonding veneer, and that the ordering of the references is opposite to the claims.

However, it is unclear why the ordering of the references is opposite to the claims.

Applicant also argues on page 15 that Fabris does not disclose layers which encapsulate each other.

However, as stated on page 3 of the previous Action, the layer disclosed by Fabris encapsulates the metal reinforcement.

Applicant also argues, on page 16, that Drake does not disclose that the flowable material encapsulates; Drake suggests that the flowable material does not encapsulate, Applicant argues, because the bond strength is at least as strong as the substrates themselves.

However, the claimed invention is not directed to a layer which is fully encapsulated; furthermore, because Drake teaches application of a flowable mixture, Drake discloses at least partial encapsulation.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Marc Patterson 2/6/06*  
Marc A. Patterson, PhD.  
Examiner  
Art Unit 1772